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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 17, 1978

OLC #78-2002/M

OMB

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer
International Communication Agency Arms Control and Disarmament
Board for International Broadcasting Agency
Civil Service Commission
✓ Central Intelligence Agency
Dept. of the Treasury
National Security Council
Office of Science and Technology Policy
Dept. of Justice
Office of the Special Trade Representative
Dept. of Defense
Dept. of Energy
National Science Foundation

SUBJECT: State proposed language to the Conferees stating the administration's position on provisions in S. 3076 and H.R. 12598, the State Department Authorization.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than C.O.B. Tuesday, July 18, 1978. Phone comments will be accepted. Please propose specific language if you are recommending change.*

Questions should be referred to Jim Barie (395-4580) or to Tracey Cole (395-4710), the legislative analyst in this office.

* If your agency does not respond within the deadline, we will assume that it has no objection to the subject material.

Ronald K. Peterson
RONALD K. PETERSON for
Assistant Director for
Legislative Reference

Enclosures
Hilda Schreiber

Tab 36

Issue. Clarification of Information Reporting Requirements.

House. The House version contains no such section.

Senate. Section 108 clarifies the intent of the Congress concerning reporting responsibilities by the Executive Branch to the Committees on Foreign Relations in the Senate and on International Relations in the House. This section makes it clear that a Federal agency must furnish any information "notwithstanding the department, agency or independent establishment of origin" to the respective committees when requested.

Administration Position

The Administration opposes Senate Section 108. Its application to national security information appears to be inconsistent with the Presidential directive implementing Executive Order 11652. That directive, (and the comparable directive to implement President Carter's Executive Order 12065 is expected to be the same) says that classified information originating in one Department shall not be disseminated outside another Department to which it has been made available without the consent of the originating Department (Section VI-D). The Senate version also appears to be inconsistent with Section 102 of the National Security Act making the Director of CIA responsible for protecting intelligence sources and methods from unauthorized disclosure.

HOUSE BILL

[No Comparable House Provision]

SENATE AMENDMENT

27 CLARIFICATION OF INFORMATION REPORTING

28 REQUIREMENT

29 SEC. 108. Section 15 (b) of the Act entitled "An Act
30 to provide certain basic authority for the Department of
31 State", approved August 1, 1956 (70 Stat. 890), is
32 amended by inserting after the word "information" the
33 following: "(notwithstanding the department, agency, or
34 independent establishment of origin)".

Tab 32 A

Issue. Science, Technology and American Diplomacy -
Findings

House. Section 501 notes the foreign policy significance
of science and technology.

Senate. The Senate version contains no comparable
section.

Administration Position.

The Administration supports the House version.
Science and technology are becoming increasingly
important aspects of U. S. foreign policy, and
the finding contained in Section 501 is a useful
and timely statement of that fact.

Tab 32 B

Issue. Science, Technology and American Diplomacy -
Policy

House. Section 502: The House version states that it should be the policy of the United States Government to assure the timely application of science and technology to the conduct of U. S. foreign policy. To that end, the USG shall:

anticipate and assess scientific and technological cooperation with other countries; and adopt measures to assure that the necessary scientific and technical training for United States government employees is undertaken.

Senate. The Senate version contains no comparable provision.

Administration Position.

The Administration supports the House version. The proposed statement of policy will be very helpful in strengthening this particular area in the conduct of United States foreign policy.

TAB 32 C

Issue. Science, Technology and American Diplomacy - Responsibilities of the President, Secretary of State and Director of the Office of Science and Technology Policy

House. Section 503 requires the President, the Secretary of State, and the Director of the Office of Science and Technology Policy and other appropriate USG officials to:

- ensure that the Secretary of State is consulted before any USG initiatives in this area are undertaken;
- identify and evaluate domestic science and technology programs and activities with significant international implications;
- identify and evaluate international science and technology programs and activities with significant domestic implications;
- assess and initiate mutually beneficial international scientific and technology activities;
- provide the Congress with an annual report on (a) the adequacy of governmental personnel requirements and standards in this area and (b) recommendations concerning the continuation of existing agreements involving science and technology.

Senate. There is no comparable Senate version.

Administration Position.

The Administration supports the House version but suggests certain modifications as follows:

Strike Section 503 and substitute a new 503 - "The President, through the Secretary of State and in consultation with the Director of the Office of Science and Technology Policy and other officials whom the President considers appropriate, shall --

(1) insure that the Secretary of State is fully informed and consulted before any agency of the United States takes any initiative intended to result in a formal, international science or technology agreement or exchange with any foreign government or international organization; and

(2) transmit to the Congress not later than January 20, 1979 a report on the implementation of the declaration of policy set out above."

The Administration suggests this change in order to: (a) assure that the Secretary of State is informed of all steps designed to lead to formal science and technology agreements or exchanges; and (b) permit the Administration to make considered suggestions to the Congress next January on the best means for implementing the expression of Congressional findings and policy set forth in the Sections 501 and 502.

Tab 32 D

Issue. Science, Technology and American Diplomacy --
Responsibilities of the Secretary of State

House. Section 504 fixes certain implementation
responsibilities on the Secretary of State,
including:

- coordination and oversight of American
international science and technology
agreements and activities;
- authority to enter into contracts for
the services of consultants and contracts
or grants for research;
- authority to train Federal officers and
employees with respect to science and
technology and international affairs;
- submission to Congress no later than
January 20, 1979 of a report on the
implementation of his responsibilities
under the title.

Senate. There is no comparable Senate provision.

Administration Position.

The Administration recommends the deletion
of Section 504 of the House bill to permit
the Administration to make considered
recommendations to the Congress on the implementati
steps in its report to Congress in January, 1979.

Tab 32 E

Issue: Science, Technology and American Diplomacy -
Earmarking of Funds

House. Section 505 earmarks \$4,071,000 of the amounts authorized to be appropriated by the bill to be available only to carry out the purpose of this title. Section 101(a)(1) of the bill has been increased by \$4,071,000 to cover this earmarking.

Senate: There is no comparable Senate provision.

Administration Position.

The Administration opposes the House version because it earmarks funds and because it is an authorization beyond the Administration's request.

HOUSE BILLSENATE AMENDMENT1 TITLE V—SCIENCE, TECHNOLOGY, AND
2 AMERICAN DIPLOMACY

[No comparable Senate provision]

3 FINDINGS

4 SEC. 501. The Congress finds that—

5 (1) the consequences of modern scientific and tech-
6 nological advances are of such major significance in
7 United States foreign policy that understanding and ap-
8 propriate knowledge of modern science and technology
9 by United States officers and employees are essential
10 in the conduct of modern diplomacy;

11 (2) many problems and opportunities for develop-
12 ment in modern diplomacy lie in scientific and techno-
13 logical fields;

14 (3) the United States Government should seek out
15 and consult with both public and private industrial,
16 academic, and research institutions concerned with mod-
17 ern technology in the formulation, implementation, and
18 evaluation of the technological aspects of United States
19 foreign policy; and

20 (4) the effective use of science and technology in in-
21 ternational relations for the mutual benefit of all nations
22 requires the development and use of the skills and
23 methods of long-range planning.

HOUSE BILLSENATE AMENDMENT

DECLARATION OF POLICY

1
2 SEC. 502. In order to maximize the benefits and to
3 minimize the adverse consequences of science and tech-
4 nology in the conduct of foreign policy, the Congress de-
5 clares the following to be the policy of the United States:

[No Comparable Senate Provision]

6 (1) Technological opportunities, impacts, changes,
7 and threats should be anticipated and assessed, and
8 appropriate measures should be implemented to in-
9 fluence such technological developments in ways bene-
10 ficial to the United States and other nations of the
11 world.

12 (2) The mutually beneficial applications of tech-
13 nology in bilateral and multilateral agreements and ac-
14 tivities involving the United States and foreign countries
15 or international organizations should be recognized and
16 supported as an important element of United States
17 foreign policy.

18 (3) The United States Government should imple-
19 ment appropriate measures to insure that individuals are
20 trained in the use of science and technology as an instru-
21 ment in international relations and that officers and em-
22 ployees of the United States Government engaged in
23 formal and informal exchanges of scientific and technical
24 information, personnel, and hardware are knowledgeable
25 in international affairs.

HOUSE BILLSENATE AMENDMENT

1 (4) In recognition of the environmental and tech-
2 nological factors that change relations among the coun-
3 tries of the world, and in further recognition of the
4 growing interdependence between domestic and foreign
5 policies and programs of the United States, United
6 States foreign policy should be continually reviewed by
7 the executive and legislative branches of the Federal
8 Government to insure appropriate and timely applica-
9 tion of science and technology to the conduct of United
10 States foreign policy.

11 RESPONSIBILITIES OF THE PRESIDENT

12 SEC. 503. (a) The President, through the Secretary
13 of State and in consultation with the Director of the Office
14 of Science and Technology Policy and other officials whom
15 the President considers appropriate, shall—

[No Comparable Senate Provision]

16 (1) notwithstanding any other provision of law,
17 insure that the Secretary of State is fully informed and
18 consulted before any agency of the United States takes
19 any initiative involving science or technology with re-
20 spect to any foreign government or international organi-
21 zation;

22 (2) identify and evaluate elements of domestic sci-
23 ence and technology programs and activities of the
24 United States with significant international implica-
25 tions;

26 (3) identify and evaluate international scientific
27 or technological developments with significant implica-
28 tions for domestic programs and activities of the United
29 States Government; and

HOUSE BILLSENATE AMENDMENT

1 (4) assess and initiate appropriate international
2 scientific and technological activities which are based
3 upon domestic scientific and technological activities of
4 the United States Government and which are beneficial
5 to the United States and foreign countries.

6 (b) The President, through the Secretary of State, shall
7 study and not later than January 31, 1980, and not later
8 than January 31 of each year thereafter, shall submit to
9 the Congress an annual report containing recommendations
10 with respect to—

11 (1) personnel requirements, and standards and
12 training for service of Federal officers and employees,
13 with respect to assignments in any agency which in-
14 volve foreign relations and science or technology; and

15 (2) the continuation of existing bilateral and multi-
16 lateral activities and agreements involving science and
17 technology, including (A) an analysis of the foreign
18 policy implications and the scientific and technological
19 benefits of such activities or agreements for the United
20 States and other parties, (B) the adequacy of the fund-
21 ing for and administration of such activities and agree-
22 ments, and (C) plans for future evaluation of such ac-
23 tivities and agreements on a routine basis.

24 (c) Except as otherwise provided by law, nothing in
25 this section shall be construed as requiring the public dis-
26 closure of sensitive information relating to intelligence
27 sources or methods or to persons engaged in monitoring
28 scientific or technological developments for intelligence pur-
29 poses.

HOUSE BILL

SENATE AMENDMENT

RESPONSIBILITIES OF THE SECRETARY OF STATE

SEC. 504. (a) In order to implement the policy set forth in section 502 of this title, the Secretary of State (hereafter in this title referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

(b) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain studies, analyses, and recommendations from knowledgeable persons and organizations with respect to the application of science or technology to problems of foreign policy.

(c) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into short-term and long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain assistance from knowledgeable persons and organizations in training Federal officers and employees at all levels of the Foreign Service and Civil Service—

(1) in the application of science and technology to problems of United States foreign policy and international relations generally; and

(2) in the skills of long-range planning and analysis with respect to the scientific and technological aspects of United States foreign policy.

[No Comparable Senate Provision]

HOUSE BILLSENATE AMENDMENT

1 (d) In obtaining assistance pursuant to subsection (c)
2 in training personnel who are officers or employees of the
3 Department of State, the Secretary may provide for detached
4 service for graduate study at accredited colleges and
5 universities.

6 (e) Not later than January 20, 1979, the Secretary
7 shall furnish to the Committee on Appropriations and the
8 Committee on International Relations of the House of Rep-
9 resentatives, and to the Committee on Appropriations and
10 the Committee on Foreign Relations of the Senate, a report
11 on the implementation of the responsibilities of the Secretary
12 under this title. Such report shall include the following in-
13 formation: an assessment of the personnel required in order
14 to carry out such responsibilities; existing and planned pro-
15 grams for research and analysis to support long-range plan-
16 ning for the application of science and technology to foreign
17 policy; existing and planned programs for training officers
18 and employees of the United States Government; and exist-
19 ing and planned programs to enter into long-term contracts
20 with academic and other organizations for assistance in train-
21 ing and in obtaining studies, analyses, and recommendations
22 with respect to the application of science or technology to
23 problems of foreign policy.

24 EARMARKING OF FUNDS

25 SEC. 505. In addition to amounts otherwise available
26 for such purposes, \$4,071,000 of the amount authorized to
27 be appropriated by section 101 (a) (1) of this Act shall be
28 available only to carry out the purposes of this title.

[No Comparable Senate Provision]

- Issue. Responsibilities of Chiefs of Mission
- House. Section 410 substitutes "Chief of Mission" for "Ambassador" in Section 16 of PL 93-475 -- the basic statutory statement of the responsibilities of Ambassadors.
- Senate.
- Section 119(1) also substitutes "Chief of Mission" for "Ambassador".
 - Section 119(2) clarifies subsection (3) of PL 93-475 confirming the intent of that section that "any department or agency having officers or employees in a country shall keep the United States Ambassador to that country fully and currently informed with respect to all activities and operations of its officers and employees in that country...". This clarification is achieved by inserting the words, "notwithstanding any other provision of law" before the words "keep the United States Ambassador fully and currently informed...".

Administration Position.

- The Administration supports the House version and opposes subsection (2) of the Senate version.

Because all of Section 16 of PL 93-475 is prefaced with the words "Under the direction of the President" the addition of the "notwithstanding" clause is unnecessary since the President has already directed in his letter of October 25, 1977 to Ambassadors that "All United States Government Personnel in your country of assignment should be made aware of your authority and responsibilities. It is their duty to keep you thoroughly and currently informed about all their activities so you can effectively direct, coordinate and supervise United States programs and operations under your jurisdiction and recommend missionwide policies to Washington." (It should be noted that the only exception made by the President was for personnel under the command of a United States area military commander an exception based on Section 16 of PL 93-475.)

HOUSE BILL

1 RESPONSIBILITIES OF A CHIEF OF MISSION

2 SEC. 410. Section 16 of the Act entitled "An Act to
3 provide certain basic authority for the Department of State",
4 approved August 1, 1956 (22 U.S.C. 2680a), is amended—

5 (1) in paragraph (1) by striking out "Am-
6 bassador to" and inserting in lieu thereof "chief of
7 mission (as defined in section 121 (9) of the Foreign
8 Service Act of 1946) in";

9 (2) in paragraph (2) by striking out "Ambassa-
10 dor" and inserting in lieu thereof "chief of mission";
11 and

12 (3) in paragraph (3) —

13 (A) by striking out "Ambassador to" and
14 inserting in lieu thereof "chief of mission in"; and

5 (B) by striking out "the Ambassador" and
16 inserting in lieu thereof "the chief of mission".

SENATE AMENDMENT

1 AUTHORITY AND RESPONSIBILITY OF UNITED STATES

2 CHIEFS OF MISSION

3 SEC. 119. Section 16 of the Act entitled "An Act to
4 provide certain basic authority for the Department of State"
5 is amended—

6 (1) by striking out the word "Ambassador" each
7 place it appears and inserting in lieu thereof "Chief of
8 Mission"; and

17 (2) by inserting after the words "in a country
18 shall" in the third paragraph thereof a comma and the
19 following: "notwithstanding any other provision of
20 law,".

Tab 68

Issue. Approval of Certain International Agreements.

House. The House version contains no such section.

Senate. Section 502 is a sense of the Senate stating that the President should seek the advice of the Committee on Foreign Relations as to whether a particular international agreement should be submitted as a treaty or an executive agreement.

Administration Position

The Administration is prepared to develop, in cooperation with Congress, an improved process of consultations.

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HOUSE BILL

SENATE AMENDMENT

- 1 APPROVAL OF CERTAIN INTERNATIONAL AGREEMENTS
- 2 SEC. 502. It is the sense of the Senate that, in determin-
- 3 ing whether a particular international agreement should be
- 4 submitted as a treaty, the President should, prior to and dur-
- 5 ing the negotiation of such agreement seek the advice of the
- 6 Committee on Foreign Relations as to whether it should be
- 7 a treaty or an executive agreement.

TAB 67

Issue. Case Act Amendments.

House. The House version contains no such section.

Senate. Section 501 amends the Case Act as follows:

- oral agreements are to be reduced to writing and transmitted to the Congress.
- annual reports from the President are required beginning March 1, 1979 with respect to any agreement transmitted after the 60-day deadline of the Case Act.
- no agreement is to be signed or otherwise concluded without prior approval of the Secretary of State or the President.

Administration Position.

- opposed to the oral agreement requirement as it would be extremely difficult if not impossible to enforce.
- opposed to the requirement for Presidential reports on late transmittals as the Department of State already performs that function. Congress will get no additional information. The President should not be burdened with a task that is already being performed and which is of a routine nature.
- in favor of section on role of State Department, except that the words "consultation with" should be substituted for the words "approval of" in the proposed subsection 112(c)(1)(A), and 112(c)(1)(B) should be revised to read: "Such consultation may encompass a class of agreements rather than particular agreements."

HOUSE BILLSENATE AMENDMENT

[No comparable House provision]

REPORTING AND COORDINATION OF INTERNATIONAL
AGREEMENTS

SEC. 501. Section 112b of title I, United States Code,
is amended as follows:

(1) In the first sentence thereof, immediately after
"text", insert the following: "(including the text of
any oral agreement, which shall be reduced to
writing)".

(2) At the beginning of the first paragraph thereof
insert "(a)".

(3) At the end thereof add the following:

"(b) Not later than March 1, 1979, and at yearly inter-
vals thereafter, the President shall, under his own signature,
transmit to the Speaker of the House of Representatives and
the chairman of the Committee on Foreign Relations of the
Senate a report with respect to each agreement transmitted
after the expiration of such period, describing fully and com-
pletely the reasons for the late transmittal.

"(c) (1) (A) Notwithstanding any other provision of
law, no international agreement shall be signed or otherwise
concluded without prior approval of the Secretary of State or
the President.

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1 “(B) Such approval may be given for a class of agree-
2 ments or for a particular agreement.

3 “(2) The Secretary of State shall determine for and
4 within the executive branch whether an arrangement consti-
5 tutes an international agreement within the meaning of sec-
6 tion 112 of title I, United States Code.

7 “(d) The President shall, through the Secretary of
8 State, promulgate such rules and regulations as may be
9 necessary to carry out this section.”